

REFERENCE TITLE: photo enforcement traffic complaints

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2722

Introduced by
Representative Kavanagh

AN ACT

AMENDING TITLE 28, CHAPTER 3, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 28-629, 28-630 AND 28-631; AMENDING SECTIONS 28-1593 AND 41-1752, ARIZONA REVISED STATUTES; RELATING TO TRAFFIC COMPLAINTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 28, chapter 3, article 2, Arizona Revised Statutes,
3 is amended by adding sections 28-629, 28-630 and 28-631, to read:

4 28-629. Photo enforcement citations

5 A. IF A PHOTO ENFORCEMENT SYSTEM DETECTS A VIOLATION OF ARTICLE 3 OR 6
6 OF THIS CHAPTER:

7 1. A NOTICE OF VIOLATION OR ANY CORRESPONDENCE WITH THE REGISTERED
8 OWNER OF THE VEHICLE RELATING TO THE VIOLATION SHALL CLEARLY STATE THAT IF
9 THE REGISTERED OWNER WAS NOT THE DRIVER OF THE VEHICLE AT THE TIME OF THE
10 VIOLATION, THE REGISTERED OWNER IS NOT UNDER A LEGAL OBLIGATION TO IDENTIFY
11 THE DRIVER OF THE VEHICLE AT THE TIME OF THE VIOLATION.

12 2. A COMPLAINT SHALL NOT BE ISSUED IF THE PHYSICAL DESCRIPTION OF THE
13 REGISTERED OWNER ON THE DEPARTMENT'S RECORDS AND THE PHYSICAL DESCRIPTION OF
14 THE OPERATOR AT THE TIME OF THE VIOLATION WOULD LEAD A REASONABLE PERSON TO
15 CONCLUDE THAT THE OWNER AND OPERATOR ARE NOT THE SAME PERSON. THIS PARAGRAPH
16 DOES NOT APPLY TO A VEHICLE THAT IS REGISTERED TO A BUSINESS ENTITY, A
17 GOVERNMENT ENTITY, A FINANCIAL INSTITUTION OR A TRUST. FOR THE PURPOSES OF
18 THIS PARAGRAPH, "BUSINESS ENTITY" MEANS ANY LEGAL ENTITY OTHER THAN AN
19 INDIVIDUAL OR SOLE PROPRIETORSHIP.

20 B. IF A VEHICLE COMMITS TWO OR MORE VIOLATIONS OF ARTICLE 6 OF THIS
21 CHAPTER THAT ARE DETECTED BY A PHOTO ENFORCEMENT SYSTEM ON A STATE HIGHWAY,
22 STATE ROUTE OR CONTROLLED ACCESS HIGHWAY IN THIS STATE, A NOTICE OF VIOLATION
23 OR CORRESPONDENCE MAY BE SENT TO THE REGISTERED OWNER OF THE VEHICLE FOR EACH
24 ALLEGED VIOLATION EXCEPT THAT A FINDING OF RESPONSIBILITY OR CONVICTION MAY
25 ONLY BE ENTERED FOR ONE CITATION IF THE VIOLATIONS OCCURRED WITHIN FIVE MILES
26 OF EACH OTHER, ON THE SAME DATE AND WITHIN TEN MINUTES OF THE FIRST VIOLATION
27 THAT IS RECORDED BY A PHOTO ENFORCEMENT DEVICE.

28 28-630. Photo enforcement system: state or interstate system
29 highways: monies to state: definition

30 A. EXCEPT FOR MONIES COLLECTED BY THE COURT PURSUANT TO TITLE 12,
31 CHAPTER 1, ARTICLE 1 AND SECTION 16-954, THE TREASURER OF A LOCAL AUTHORITY
32 THAT IS AUTHORIZED BY THIS STATE TO USE A PHOTO ENFORCEMENT SYSTEM TO
33 IDENTIFY VIOLATORS OF ARTICLES 3 AND 6 OF THIS CHAPTER ON A STATE HIGHWAY,
34 STATE ROUTE OR CONTROLLED ACCESS HIGHWAY IN THIS STATE SHALL TRANSMIT ANY
35 PROFITS THE LOCAL AUTHORITY RECEIVES AS A RESULT OF THE VIOLATIONS ON STATE
36 HIGHWAYS, STATE ROUTES AND CONTROLLED ACCESS HIGHWAYS TO THE STATE TREASURER
37 FOR DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE ARIZONA HIGHWAY
38 PATROL FUND ESTABLISHED BY SECTION 41-1752 UNTIL THE NUMBER OF HIGHWAY PATROL
39 OFFICERS IN THE DEPARTMENT OF PUBLIC SAFETY EQUALS ONE HUNDRED PER CENT OF
40 THE NUMBER OF OFFICERS RECOMMENDED IN THE DEPARTMENT OF PUBLIC SAFETY'S
41 POLICE ALLOCATION MODEL. ANY MONIES THAT ARE DEPOSITED PURSUANT TO THIS
42 SECTION AND THAT REMAIN IN THE ARIZONA HIGHWAY PATROL FUND ON JUNE 30 OF EACH
43 YEAR SHALL BE TRANSFERRED TO THE STATE GENERAL FUND.

44 B. FOR THE PURPOSES OF THIS SECTION, "PROFITS" MEANS ANY MONIES IN
45 EXCESS OF THE STATE OR LOCAL AUTHORITY'S COST TO ADMINISTER THE PHOTO

1 ENFORCEMENT SYSTEM AND INCLUDES ONLY CIVIL PENALTIES AND FINES AND DOES NOT
2 INCLUDE SURCHARGES.

3 28-631. Local authority photo enforcement contracts: fee
4 provisions

5 A. EACH NEW CONTRACT AND EACH RENEWAL OF AN EXISTING CONTRACT THAT
6 CONTAINS PROVISIONS RELATING TO PHOTO ENFORCEMENT AND THAT IS ENTERED INTO ON
7 OR AFTER THE EFFECTIVE DATE OF THIS SECTION BETWEEN A LOCAL AUTHORITY AND A
8 VENDOR:

9 1. MAY INCLUDE EITHER A PROVISION FOR A FLAT FEE FOR SERVICES RENDERED
10 OR A PROVISION FOR COMPENSATION BASED ON THE NUMBER OF ENFORCEMENT CITATIONS
11 ISSUED.

12 2. SHALL INCLUDE A PROVISION REQUIRING APPROVAL IN WRITING BY THE
13 LOCAL AUTHORITY OF THE LOCATION OF ALL PHOTO ENFORCEMENT SITES BEFORE THE
14 DEPLOYMENT AND USE OF A PHOTO ENFORCEMENT SYSTEM.

15 B. IF THE CONTRACT PRESCRIBES COMPENSATION BASED ON THE NUMBER OF
16 ENFORCEMENT CITATIONS ISSUED, THE CONTRACT SHALL CONTAIN A PROVISION
17 PROHIBITING COMPENSATION FOR AN ENFORCEMENT CITATION UNLESS THE CITATION
18 RESULTS IN A CONVICTION, FINDING OF RESPONSIBILITY, PLEA OF NO CONTEST OR
19 ATTENDANCE AT DEFENSIVE DRIVING SCHOOL.

20 Sec. 2. Section 28-1593, Arizona Revised Statutes, is amended to read:

21 28-1593. Service of uniform traffic complaint; photo
22 enforcement; personal service

23 A. A traffic complaint may be served by delivering a copy of the
24 uniform traffic complaint citation to the person charged with the violation
25 or, **EXCEPT AS PROVIDED IN SUBSECTION C**, by any means authorized by the rules
26 of civil procedure. At the discretion of the issuing authority, a complaint
27 for a violation issued after an investigation in conjunction with a traffic
28 accident may be sent by certified mail, return receipt requested, ~~AND~~
29 delivered to addressee only, to the address provided by the person charged
30 with the violation. Service of the complaint is complete on filing the
31 receipt in the court having jurisdiction of the violation.

32 B. The original complaint shall be filed in a court having
33 jurisdiction of the violation within ten court days of the time the complaint
34 was issued. A peace officer or duly authorized agent of a traffic
35 enforcement agency may issue the traffic complaint.

36 C. **THE REQUIREMENTS OF SUBSECTION A ARE MET IF THE SERVICE IS MADE ON**
37 **THE REGISTERED VEHICLE OWNER OR IDENTIFIED DRIVER IF THE REGISTERED OWNER IS**
38 **NOT THE DRIVER OR THE COMPLAINT IS LEFT AT THE REGISTERED VEHICLE OWNER'S**
39 **HOME OR HOME OF THE IDENTIFIED DRIVER IF THE REGISTERED OWNER IS NOT THE**
40 **DRIVER WITH A PERSON WHO IS AT LEAST FOURTEEN YEARS OF AGE.**

41 Sec. 3. Section 41-1752, Arizona Revised Statutes, is amended to read:

42 41-1752. Arizona highway patrol fund

43 A. An Arizona highway patrol fund is established.

44 B. The Arizona highway patrol fund consists of:

45 1. Monies distributed to the fund from the Arizona highway user
46 revenue fund by the legislature subject to section 28-6537.

- 1 2. Miscellaneous service fees.
- 2 3. Rewards.
- 3 4. Awards.
- 4 5. Insurance recoveries.
- 5 6. Receipts from the sale or disposal of any property held by the
- 6 Arizona highway patrol or purchased with Arizona highway patrol monies.
- 7 7. Monies received from the public safety personnel retirement system
- 8 pursuant to section 20-224.01.
- 9 8. Monies deposited pursuant to section 28-3513.
- 10 9. **MONIES DEPOSITED PURSUANT TO SECTION 28-630.**
- 11 C. Subject to legislative appropriation, the patrol superintendent
- 12 shall administer and spend monies in the Arizona highway patrol fund in
- 13 conformity with the laws governing state financial operations.
- 14 D. Monies in the Arizona highway patrol fund:
- 15 1. Do not revert to the state general fund or Arizona highway user
- 16 revenue fund.
- 17 2. Are exempt from the provisions of section 35-190 relating to
- 18 lapsing of appropriations.
- 19 E. Subject to legislative appropriation, monies in the Arizona highway
- 20 patrol fund shall be used to administer the provisions of law relating to the
- 21 highway patrol and the Arizona highway patrol reserve and all matters
- 22 pertaining to those laws, except that monies received pursuant to subsection
- 23 B, paragraph 7 of this section shall be used for the department of public
- 24 safety.